

# **TOWN COUNCIL MEETING**

**May 15, 2007**

## **BOARD OF LICENSE COMMISSIONERS**

**1. Call to Order 7:05 p.m. All council members were present.**

### **2. Minutes**

**April 17**

**Voted 5-0 to defer acceptance of these minutes, (KM – JJ).**

### **3. Public Hearing Class BV Liquor License Transfer**

**a. Brinker International, Inc. Asset Transfer to Pepper Dining, Inc.**

**Voted 5-0 by roll call to approve the asset transfer from Brinker International to Pepper Dining, (KM – RM).**

### **4. Application for Victualling License**

**a. Pepper Dining, Inc. d/b/a Chili's Grill and Bar**

**Voted 5-0 by roll call to grant a victualling license to Pepper Dining, (KM – JJ).**

**b. First Mill Ventures, LLC d/b/a Del's of Cumberland**

**Voted 5-0 to deny this license application, (RM – KM). The applicant was not present.**

**c. Pal's Ice Cream**

**Voted 5-0 to grant a victualling license to Pal's Ice Cream with the stipulation that if the police receive any complaints, they will need to come before the council to address, (RM – KM).**

**5. Application for Class F License**

**a. Memorial Day Parade Committee for event on May 28, 2007**

**Voted 5-0 to approve, (KM – RM).**

**7. Application for Special Event License**

**a. Lou's Café for event June 23, 2007**

**Voted 5-0 to grant this license with the stipulation noted by the Chief of Police, (RM – JF).**

**b. Lou's Café for event on June 3, 2007**

**Voted 5-0 to grant this license with the stipulations noted by the Chief of Police, (RM – JF).**

**8. Application for Private Detective License**

**Douglas Belknap**

**Voted 5-0 to renew the Private Detective license of Douglas Belknap, (KM – JJ).**

**TOWN COUNCIL**

**Call to Order 7:25 p.m.**

## **Consent Agenda**

**Voted 5-0 to accept the consent agenda as amended, (KM – JJ).**

**The consent agenda consists of the following:**

### **Consideration of Monthly Bills**

- 1. Accounts Payable – Library:**
- 2. Accounts Payable – Town:**
- 3. Direct Pay – Town:**

### **Communications**

#### **1. State Mandated Financial Reports**

##### **a. Town**

#### **2. John Picozzi**

#### **3. Town of Burrillville**

#### **4. Town of Westerly**

#### **5. Town of Warren**

#### **6. Town of Portsmouth**

### **Reports**

#### **1. Town Administrator**

### **Tax Abatements**

#### **a. \$2,366.73**

### **Communications**

**Gerard Dumas: Councilor McKenna presented a citation to Gerard Dumas in honor of his service on the Parks and Recreation**

**Commission. Town Administrator T. Joseph Almond also gave Mr. Dumas a citation. Park and Recreation Commission member and the Director of Parks and Recreation commented on Mr. Dumas 15 years of service to his community.**

### **Public Comment**

**Derek Meikeljohn: Mr. Meikelejohn informed the council that the RI DOT has opened an office at 840 Smithfield Avenue. Residents can look at the plans for the sidewalk project.**

### **Minutes**

- 1. March 19 – Work Session**
- 2. April 16 – Special Meeting**
- 3. April 16 – Purchasing Committee**
- 4. April 16 – Work Session**
- 5. April 17 – Ordinance Committee**
- 6. April 17 – Public Safety Committee**
- 7. April 17 – Claims Committee**
- 8. April 17 – Regular Meeting**
- 9. May 3 – Special Meeting**
- 10. May 8 – Ordinance Committee**

**Voted 5-0 to defer the minutes and grant an extension, (KM – JF).**

### **Appointments**

- 1. Tenant Board – District 4**

**Voted 5-0 to defer, (JJ – KM).**

## **2. Conservation Commission – District 1**

**Voted 5-0 to appoint Ann Platt McGinn, (JJ – KM).**

## **3. Police Prosecutor**

**Voted 4-1 by roll call to appoint Steven Archembeault, (KM – RM)**

**Council President O’Grady was opposed.**

## **4. Sewer Appeals - District 1**

**Voted 5-0 to defer, (JF – KM).**

## **5. Conservation Commission - District 2**

**Voted 4-0 to appoint Daniel Flynn, (JJ – JO). Councilor Flynn abstained. Solicitor DeSisto stated it is proper for Councilor Flynn’s son to be appointed as this is an unpaid position.**

## **6. Conservation Commission – District 4**

**Voted 5-0 to defer, (JJ – RM).**

## **7. Parks and Recreation Commission – District 5**

**Voted 5-0 to defer this appointment, (RM – KM).**

## **New Business**

### **a. Resolution 07-20: Authorize Issuing of Bond /Notes**

**Voted 5-0 to change the order of business and consider Resolution 07-20, (KM – JJ).**

**Voted 5-0 to dispense with the council rules and consider Resolution 07-20 immediately, (KM – JJ).**

**Voted 5-0 to adopt Resolution 07-20, (KM – JF).**

**Resolution 07-20**

**TOWN COUNCIL**

**TOWN OF LINCOLN, RHODE ISLAND**

**RESOLUTION AUTHORIZING THE TOWN OF LINCOLN TO FINANCE THE ACQUISITION AND PRESERVATION OF OPEN SPACE AND THE ACQUISITION, PRESERVATION, CONSTRUCTION OR IMPROVEMENT RECREATIONAL FACILITIES IN THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$3,000,000 BONDS AND/OR NOTES THEREFOR**

**RESOLVED, That:**

**SECTION 1. Pursuant to Chapter 298 of the Public Laws of 2005 and a Referendum held on November 8, 2005, an amount not to exceed \$3,000,000 is appropriated for the purpose of financing the acquisition and preservation of open space and the acquisition, preservation, construction or improvement of recreational facilities in the Town (collectively, the “Project”).**

**SECTION 2. The Director of Finance and the President of the Town Council be and hereby are authorized to issue on behalf of the Town, an amount not exceeding Three Million Dollars (\$3,000,000) bonds of the Town, at one time, or from time to time in order to meet the foregoing appropriation.**

**SECTION 3. The said officers from time to time may issue and refund**

not exceeding \$3,000,000 interest bearing or discounted notes in anticipation of the issue of said bonds or in anticipation of the receipt of federal or state aid for the purpose specified in Section 1 hereof.

**SECTION 4.** The manner of sale, amount, denominations, maturities, conversion or registration privileges, interest rates, medium of payment, and other terms, conditions and details of the bonds or notes may be fixed by the officers authorized to sign the bonds or notes.

**SECTION 5.** The said officers from time to time may apply for, contract for and expend any federal or state advances or other grants or assistance which may be available for the purposes specified in Section 1 hereof.

**SECTION 6.** Pending the issuance of the bonds under Section 2 hereof or pending or in lieu of the issue of notes under Section 3 hereof, the Director of Finance, at the written direction of the Town Council, may expend funds from the general treasury of the Town for the purposes specified in Section 1 hereof. Any advances made under this section shall be repaid without interest from the proceeds of the bonds or notes issued hereunder or from the proceeds of applicable federal or state assistance or from other available funds.

**SECTION 7.** The Director of Finance and the President of the Town Council are also authorized, empowered and directed, on behalf of

the Town, to: (i) execute, acknowledge and deliver any and all other documents, certificates or instruments necessary to effectuate such borrowing; (ii) amend, modify or supplement the bonds or notes any and all other documents, certificates or instruments at any time and from time to time, in such manner and for such purposes as such officers shall deem necessary, desirable or advisable; (iii) do and perform all such other acts and things deemed by such officers to be necessary, desirable or advisable with respect to any matters contemplated by this resolution in order to effectuate said borrowing and the intent hereof.

**SECTION 8.** The Director of Finance together with the President of the Town Council be, and hereby are, authorized to deliver the bonds or notes to the purchasers and said officers be, and hereby are, authorized and instructed to take all actions, on behalf of the Town, necessary to ensure that interest on the bonds or notes will be excludable from gross income for federal income tax purposes and to refrain from all actions which would cause interest on the bonds or notes to become subject to federal income taxes.

**SECTION 9.** This resolution is an affirmative action of the Town Council of the Town toward the issuance of bonds or notes in accordance with the purposes of the laws of the State. This resolution constitutes the Town's declaration of official intent, pursuant to Treasury Regulation §1.150(2), to reimburse the Town for certain capital expenditures for the Project paid on or after the date



which is sixty (60) days prior to the date of this resolution but prior to the issuance of the bonds or notes. Such amounts to be reimbursed shall not exceed \$3,000,000 and shall be reimbursed not later than eighteen (18) months after (a) the date on which the expenditure is paid or (b) the date the Project is placed in service or abandoned but in no event later than three (3) years after the date the expenditure is paid.

**SECTION 10.** The Director of Finance and the President of the Town Council are authorized to take all actions necessary to comply with federal tax and securities laws including Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") and to execute and deliver a Continuing Disclosure Certificate in connection with the Bonds in the form as shall be deemed advisable by the Director of Finance and the President of the Town Council in order to comply with the Rule. The Town hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate, as it may be amended from time to time. Notwithstanding any other provision of this Resolution or the Bonds, failure of the Town to comply with the Continuing Disclosure Certificate shall not be considered an event of default; however, any bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Town to comply with its obligations under this Section and under the Continuing Disclosure Certificate.

**SECTION 11. This resolution shall take effect upon passage.**

**Submitted by: Town Administrator, T. Joseph Almond**

**Adopted this 15th day of May, 2007**

**ATTEST: Karen D. Allen**

**May 16, 2007**

**b. Resolution 07-21: Appropriating Surplus Funds for Arbitration Settlement**

**Voted 5-0 to change the order of business and consider resolution 07-21, (KM – JJ).**

**Voted 5-0 to dispense with the council rules and consider resolution 07-21 immediately, (KM – JF).**

**Voted 5-0 by roll call to approve resolution 07-21, (KM – JF).**

**Finance Director John Ward was present to explain.**

**Resolution 07-21**

**RESOLUTION APPROPRIATING SURPLUS FUNDS  
FOR THE PURPOSE OF SETTLEMENT OF ARBITRATION DECISION**

**WHEREAS, funds were previously appropriated at the Financial Town Meeting for the**

**budget year 2005-2006 in the amount of \$265,000 to pay  
for Anticipated**

**Salary Increases arising from settlement of contracts in  
negotiation, and;**

**WHEREAS, the \$179,252.57 of the appropriation was unspent and  
reverted to the Town**

**Surplus at June 30, 2006, and;**

**WHEREAS, an Arbitrator has rendered a final decision in the matter  
(AAA Case No:**

**1139-2251-05) which requires payment of retroactive wages  
equal to 4%**

**of previously earned wages for the 2005-2006 fiscal year, now**

**THEREFORE, BE IT RESOLVED by the Town Council of the Town of  
Lincoln that T. Joseph Almond, Town Administrator, is hereby  
authorized to expend up to \$75,000 from the Town's Unrestricted  
Surplus in settlement of the arbitrators decision.**

**c. Resolution 07-22: Lombeau Settlement**

**Voted 5-0 to change the order of business and consider resolution 07-22, (KM – JJ).**

**Voted 5-0 to dispense with the council rules and consider resolution 07-22 immediately, (KM – JJ).**

**Voted 5-0 by roll call to adopt resolution 07-22, (KM – JJ).**

**Resolution 07-22**

**RESOLUTION APPROPRIATING SURPLUS FUNDS  
FOR THE PURPOSE OF SETTLEMENT OF LITIGATION**

**WHEREAS, the Town of Lincoln has agreed to purchase certain  
parcels of land in**

**a legal settlement with Lombeau, Inc., and;**

**WHEREAS, the Town of Lincoln has paid \$154,906.13 from the Open  
Space Bond**

**Fund leaving \$195,767 in bond proceeds and a \$30,000  
contribution**

**From the R. I. Interlocal Risk Trust and;**

**WHEREAS, that balance of \$225,767 in the Open Space Bond is insufficient to pay**

**the \$420,000 for the final settlement payment due, and:**

**WHEREAS, the parcels of land may be retained by the Town for open space use, and;**

**WHEREAS, the Town has a Reserved Surplus of \$361,759 as of June 30, 2006**

**designated for the purpose of Open Space acquisition; now,**

**THEREFORE, BE IT RESOLVED by the Town Council of the Town of Lincoln that T. Joseph Almond, Town Administrator, is hereby authorized to expend up to \$200,000 from the Town's Restricted Open Space Surplus to be used as payment of the balance necessary beyond the available Open Space Bond funds, and that if at any time in the future any portion of the acquired land is sold, all proceeds from such sale shall revert to the Open Space Restricted Surplus account.**

### **3. Revised Budget Expenditures**

**Voted 5-0 to change the order of business and consider the revised budget expenditures from the Town Administrator, (KM – JJ).**

**Voted 5-0 by roll call to approve the revised allotments for the following as listed in a letter from the Town Administrator, (KM – JJ).**

## **Unfinished Business**

### **1. Claims Committee Report**

#### **a. Diane Good**

**Voted 5-0 to defer, (RM – KM).**

### **2. Ordinance Committee Report**

#### **a. Ordinance 06-16: An Ordinance Amending the Town of Lincoln Zoning Ordinance to Establish Policy of Inclusionary Zoning for the Expansion of Affordable Housing**

**Councilor Macksoud reported this ordinance was tabled in committee.**

#### **b. Ordinance 07-01: An Ordinance in Amendment of the Code of Ordinances of the Town of Lincoln Entitled “Boards and Commissions”**

**Councilor Macksoud reported this ordinance was tabled in committee.**

#### **a. Resolution 07-01: Rules of the Council**

**Councilor Macksoud reported this resolution was tabled in committee.**

#### **b. Resolution 07-07: River Road Sidewalk Repair**

**Councilor Macksoud reported this resolution has been deferred until September.**

#### **c. Resolution 07-09: Rules of the Town Council**

**Voted 4-1 to approve Resolution 07-08 as amended, (KM – JJ).  
Councilor McKenna was opposed.**

**Need revised resolution**

**d. Ordinance 07-04: BYOB Regulations**

**Voted 5-0 by roll call to approve Ordinance 07-04 as amended in  
committee, (KM – JJ).**

**Ordinance 07- 04**

**ORDINANCE RELATING TO CONSUMPTION AND POSSESSION OF  
ALCOHOL IN UNLICENSED RESTAURANTS AND VICTUALLING  
ESTABLISHMENTS**

**The Town Council of the Town of Lincoln hereby ordains that the  
Code of Ordinances, Town of Lincoln, Rhode Island, is hereby  
amended by adding a section, to be numbered 70-4, which reads as  
follows:**

**(a) It shall be unlawful for any person to consume alcoholic  
beverages from any type of a container while on or within the  
premises of a restaurant, victualling house, or any establishment**

**engaged in the business of preparing food for consumption either on the premises or for take out that has not been issued a valid liquor license by the Board of License Commissioners of the Town of Lincoln.**

**Letters will be sent out to all holders of a victualling license.**

**e. Ordinance 07-05: Helmet Requirements**

**Voted 2-3 for passage of ordinance 07-05, (JJ – JF). Councilor Jahnz and Flynn were in favor and Councilors Macksoud, McKenna and O’Grady were opposed.**

**f. Ordinance 07-06: Creation Lonsdale Redevelopment Agency**

**Councilor Macksoud reported this ordinance is still in committee.**

**3. Ordinance 06-15: An Ordinance in Amendment and Reenactment of the Code of Ordinances of the Town of Lincoln Chapter 260 Entitled “Zoning”**

**Voted 5-0 by roll call for passage of Ordinance 06-15 as amended, (KM – JJ)**

**Voted 5-0 to amend page 18 section 260-9 by adding “N” to read, “Mixed use: A combination of residential and commercial uses located on one lot. There shall be no more than one main building on one lot.”, (KM – JJ).**

**Voted 5-0 to add section 260-21 which will add definitions for the use table in 260-22, (KM – JJ).**



**Voted 5-0 to amend section 260-8 A by adding “except as permitted in subsection E”, (KM – JJ).**

**Voted 5-0 to amend section 260-13D by removing the words in the parenthesis, (KM – JJ).**

**Voted 5-0 to amend section 260-45 by removing section E, (KM- JJ).**

**Voted 5-0 to amend section 260-45 section C by removing “Town council President or the President’s designee” and adding “Chair of the Land Trust or designee”, (KM – JJ).**

**Voted 5-0 to amend section 260-74 by removing section B, (KM – JJ).**

**Voted 5-0 to amend section 260-43 I by removing “and triplex”, (KM – JJ).**

**Voted 5-0 to amend section 260-43 N line 42 by removing “as appraised” and replacing it with “as assessed”, (KM – JJ).**

**Voted 5-0 by roll call to add a section 260-11L in the use chart to read as follows: RA-N, RS-N, RL-S, RG-S, BL-S, ML-P, MG-P, CR1-N, CR2-N, VCMU-N, (JF – JJ).**

#### **4. Solicitors Report**

##### **a. Discussion Municipal Court Activities – Zoning and Code Enforcement**

**Solicitor DeSisto stated the process of bring residents to Municipal Court and code enforcement in general needs to be tightened up. He will work with the zoning official to address any outstanding issues.**

##### **b. Town Solicitor**

**Solicitor DeSisto submitted his first bills to the Administrator.**

## **7. Housing Authority – Discussion**

**The Council will draft a resolution to address their displeasure with the lack of progress on**

**With the Old Orchard Street project.**

### **New Business**

#### **1. Resolutions introduction for Referral to Committee**

##### **d. Resolution 07-19: Tanury**

**Voted 5-0 to dispense with the Council rules and consider this resolution immediately, (JJ – JF).**

**Voted 5-0 for passage of Resolution 07-19, (JJ – JF).**

### **Resolution 07-19**

#### **Resolution of the Lincoln Town Council**

**Whereas: Thomas A. Tanury is chairman of Tanury Industries, an innovative and multifaceted metal finishing company that makes its home in Lincoln, RI;**

**And Whereas: Since taking management responsibility for his family business in the mid-1970s, Tom Tanury has overseen the growth of Tanury Industries from a company with one division and fifteen employees to a large, diversely structured firm of over 150**

**employees;**

**And Whereas: Tom is well-known and highly regarded throughout the Town of Lincoln and the State of Rhode Island for his many years of dedicated service to the community through trade, education, the arts, and numerous charities and foundations;**

**And Whereas: On May 17th, 2007 Tom is a recipient of an Honorary Doctor of Business Administration from Bryant University.**

**Therefore be it Resolved: That the Lincoln Town Council hereby honors Thomas A. Tanury for receiving an Honorary Doctor of Business Administration as conferred upon him by Bryant University. We congratulate him for this honor and wish to convey our pride in a model corporate citizen of Lincoln receiving such a prestigious accolade.**

**e. Resolution 07-23: Christoforos Xiarhos**

**Voted 5-0 to dispense with the council rules and consider Resolution 07-23 immediately, (JJ – JF).**

**Voted 5-0 for passage of Resolution 07-23, (JJ – JF).**

**Resolution 07-23**

## **Town of Lincoln**

### **Resolution of the Lincoln Town Council**

**Whereas: Chris Xiarhos is the proprietor of the Weiner Genie restaurant on located on Higginson Avenue;**

**And Whereas: In February 2007 Mr. Xiarhos celebrated his thirtieth year of continuous operation;**

**And Whereas: For over thirty years Mr. Xiarhos has served fine food in a pleasant atmosphere with prompt and courteous service to patrons young and old;**

**And Whereas: The Weiner Genie has rightly become a Lincoln landmark and institution.**

**Therefore be it Resolved: That the Lincoln Town Council hereby honors Chris Xiarhos for his success and service to the Town of Lincoln and wishes him continued success for his next thirty years.**

### **2. Ordinance introduction for Referral to Committee**

#### **a. Ordinance 07-08: White Goods**

**Voted 5-0 to refer Ordinance 07-08 to the Ordinance Committee, (KM – RM).**

### **Communications**

**1. State Mandated Financial Reports**

**a. School**

**b. Water Department**

**Voted 5-0 to defer these reports, (KM – JJ).**

**2. Gerard Dumas**

**Voted 5-0 to accept with appreciation, (RM – JJ).**

**3. William and Mary Cloos**

**Voted 5-0 to refer this matter to the Public Safety Committee, (KM – JJ).**

**Adjourn 10:00 p.m.**

**Karen D. Allen**

**Town Clerk**